



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/777,557	12/30/96	WILDE	0527-VDCK

GREG T. SUEOKA
FENWICK & WEST, LLP
TWO PALO ALTO SQUARE
PALO ALTO CA 94306

LM02/1207

EXAMINER
NGUYEN, T

ART UNIT	PAPER NUMBER
2772	

DATE MAILED: 12/07/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



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Under the American Notice of Drafting Convention, Drafting Convention, PTO 99-100

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Office Action Summary

Application No.
08/777,557

Applicant(s)
Daniel Wilde

Examiner
Thu Nguyen

Group Art Unit
2772



☒ Responsive to communication(s) filed on Nov 9, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-25 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-25 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-25 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-49 of copending Application No. 08/856,546. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-25 basically claim the same subject matter. For example, claim 1 claims generating an eight bit color shade, truncating the desired eight bit color shade value, generating a FRAC value, producing ramp value and determining the color of each pixel using the selected bit. The limitations are claimed in claim 1 of the copending application as well. Added limitations, such as the FRAC value determining and providing information of the proximity of a desired eight bit color shade, the probability of a ramp value being dependent upon the values of

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the plurality of bits in the ramp value, just further describe the same FRAC and ramp value of the copending application. Moreover, the added limitations are fully disclosed in the specification of the copending application .

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Nguyen whose telephone number is (703) 306-9130. The examiner can normally be reached on Monday-Thursday from 8:00 am to 5:00 pm ET.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Powell, can be reached on (703) 305-9703. The fax phone number for this Group is (703)308-6606 .

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)305-3900.

NTV

December 1, 1999


MARK R. POWELL
SUPERVISORY PATENT EXAMINER
GROUP 2700